HOUSE BILL REPORT
HB 2611

As Reported By House Committee On:
Financial Institutions & Insurance

Title: An act relating to mortgage insurance.

Brief Description: Regulating mortgage insurance.

Sponsors: Representatives Keiser, Wolfe, Benson, Gardner and Dickerson.

Brief History:
Committee Activity:
Financial Institutions & Insurance: 1/28/98, 2/2/98 [DPS].

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives L. Thomas, Chairman; Smith, Vice Chairman; Zellinsky, Vice Chairman; Wolfe, Ranking Minority Member; Grant, Assistant Ranking Minority Member; Benson; Constantine; DeBolt; Keiser; Sullivan and Wensman.

Staff: Charlie Gavigan (786-7340).

Background: Mortgage insurance, or mortgage guarantee insurance, is insurance that protects the lender if the borrower defaults. Generally, the insurance is required when the loan-to-value (LTV) ratio exceeds 80 percent; the insurance brings the lender's exposure down to at least an 80 percent LTV. The borrower pays for this insurance.

Most mortgage lending, especially first mortgages, follows standards established by the secondary market, which is comprised primarily of federal agencies such as FHA, FNMA, Freddie Mac, etc. Typical underwriting requirements by the secondary market mandate mortgage insurance when the LTV is above 80 percent. Generally, this insurance must be maintained for at least two years and until the LTV is at or below 80 percent. Depending on the federal secondary market institution policy or the loan agreement, a borrower may be able to cancel mortgage insurance when the LTV falls below 80 percent; the lender often requires proof, such as an appraisal.

Federal Truth-in-Lending law (TIL) requires disclosure of mortgage insurance on the TIL disclosure. The lender should disclose the insurer as one of several third parties who

provide services related to the loan (such as title insurance, the appraisal, the credit report, etc.).

Summary of Substitute Bill: For loans made on or after July 1, 1998, if mortgage insurance is required, the lender must disclose to the borrower whether and under what conditions the mortgage insurance can be canceled. For existing loans with mortgage insurance, and for loans with mortgage insurance entered into on or after July 1, 1998, the lender or loan servicer must annually disclose to the borrower whether and under what circumstances the mortgage insurance can be canceled. Information necessary to cancel the mortgage insurance must also be supplied. These provisions do not apply to mortgages funded with bond proceeds or made through the Federal Housing Administration or the Veterans Administration. Penalties for violating these provisions are provided.

For loans with mortgage insurance made on or after July 1, 1998, except when a federal statute or a rule or guideline of a federal secondary market organization prohibits cancellation of mortgage insurance, the lender cannot collect and the borrower does not have to pay mortgage insurance after all the following occur: (1) The borrower makes a written request to cancel the mortgage insurance; (2) the residential loan is at least 2 years old; (3) the outstanding principal balance is not over 80 percent of the property value (the lender can require a current appraisal and splits the cost with the borrower); and (4) the borrower is current on his or her payments and has made payments in a timely manner. This does not apply to mortgages funded with bond proceeds or where federal statute, rule, or guideline prohibits canceling mortgage insurance. Lenders or loan servicers comply with these requirements if they follow secondary market standards.

Compliance with federal law regarding notifications, disclosures, or cancellations of mortgage insurance is deemed in compliance with similar provisions of this act.

For loan mortgages made on or after July 1, 1998, mortgage insurance cannot be required if the loan-to-value (LTV) ratio is below 80 percent , except that for large non-standard loans the lender and borrower can agree to mortgage insurance even if the LTV ratio is below 80 percent.

Substitute Bill Compared to Original Bill: The substitute bill: (1) Makes technical changes and clarifications; (2) clarifies who may be liable for damages and what those damages are; (3) clarifies that the current loan balance must be 80 percent or less of the current market value before mortgage insurance must be canceled; (4) allows lenders to obtain mortgage insurance on jumbo (large) loans even if the LTV is 80 percent or less; and (5) provides that compliance with federal law regarding notifications, disclosures, or cancellations of mortgage insurance is deemed in compliance with similar provisions of this act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect on July 1, 1998.

Testimony For: Consumers often pay mortgage insurance premiums long after their loan-to value ratio is below the standard 80 percent because they do not know they can cancel this insurance. This bill protects consumers from having to needlessly pay for unneeded mortgage insurance. Lenders or loan servicers have to provide loan information annually to borrowers now; adding mortgage insurance disclosures would not be burdensome.

Testimony Against: Let Congress act on this issue; it's a national issue. The treble damages provision is excessive.

Testified: Representative Karen Keiser (supports); Dave Diehl, Office of the Insurance Commissioner (supports); Scot Gaspard, Washington Savings League and Washington Mortgage Lenders (supports with amendment); and Jim Fitzgerald, Washington Association of Mortgage Brokers (opposes).